

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7945

BILL NUMBER: SB 538

DATE PREPARED: Apr 9, 1999

BILL AMENDED: Apr 8, 1999

SUBJECT: Indiana Ethics Commission.

FISCAL ANALYST: Bernadette Bartlett

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FUNDS AFFECTED: X **GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) This bill redefines the terms "employer" and "employee" as used in the state ethics statute. The State Ethics Commission has jurisdiction over certain individuals who are under contract or are employed by a person under a contract with a state agency. The Commission is authorized to dismiss a complaint if the Commission is satisfied that a governmental entity has dealt with the complaint appropriately.

Commission evidence relating to an investigation is confidential until certain events occur. (Current law provides that Commission records relating to a preliminary investigation are confidential until the stated events occur.) A Commission report may recommend that an appointing authority or a state officer issue a letter of counseling to a respondent to a complaint filed with the Commission. This bill makes changes to the information required to be stated on financial disclosure statements filed with the Commission.

A state officer or employee may not retaliate against a former employee because the former employee filed a complaint with, provided information to, or testified before the Commission. A person is prohibited from taking certain actions that would interfere with a Commission proceeding or investigation. This bill makes other changes in terminology in the state ethics statute.

The bill also provides that the State Ethics Commission has jurisdiction over local officers and employees. Two members are added to the Commission. At least two Commission members must have knowledge of the operation of political subdivisions.

The criminal conflict of interest statute applies to grants and loans made by a governmental entity under certain circumstances. The Commission must review certain factors relating to decisions for the location or construction of license branch facilities. The Commission must determine whether, based on its review, if there have been any violations of Indiana ethics laws. The Commission must report regarding its review and conclusions to the Governor and the Legislative Council.

Effective Date: (Amended) Upon passage; July 1, 1999.

Explanation of State Expenditures: (Revised) This bill provides that the State Ethics Commission has jurisdiction over local officers and employees and that the criminal conflict of interest statute applies to grants and loans made by governmental entities under certain circumstances. These provisions will result in increased work for the Commission. The specific impact, however, is indeterminable and will depend on the number and nature of cases that require investigation or consideration by the Commission as a result of the provisions. This bill also adds two members to the Commission which will result in an estimated impact of less than \$3,000.

As of January 1999, the Commission maintained a caseload of 15 cases under active investigation with another ten to fifteen under consideration. The Commission also provides training throughout the state in town, city, and county enforcement. Investigation costs as well as training costs would significantly increase under the provisions of the bill.

This bill specifies that a public servant who derives a profit from a grant and/or loan commits a Class D felony. A Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,500 in FY 97. Individual facility expenditures range from \$11,000 to \$27,000. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner. The average length of stay in DOC facilities for all Class D felony offenders is approximately seven months.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: All. of Correction.

Local Agencies Affected: All.

Information Sources: David Maidenberg, Director, Ethics Commission, (317) 232-3850. Indiana Sheriffs Association, Department of Correction.